



Seyfarth Shaw LLP
620 Eighth Avenue
New York, New York 10018
T (212) 218-5500
F (212) 218-5526

Hwexler@seyfarth.com
T (212) 218-3332

www.seyfarth.com

July 2, 2021

VIA ELECTRONIC FILING

David E. Leach
Regional Director, Region 22
National Labor Relations Board
20 Washington Place, 5th Floor
Newark, New Jersey 07102-3115

**Re: Refresco Beverages US, Inc. - Employer's Objections to Election
Case Nos. 22-RC-276628**

Dear Regional Director Leach:

Pursuant to Section 102.69 (a) of the Board's Rules & Regulations, the undersigned on behalf of the Employer Refresco Beverages US, Inc., ("Employer") submits that the election must be set aside based on the following objections:

1. The Board Agent failed to open the polls at the scheduled time of 6:00 AM on Friday June 25, 2021.
2. The Board Agent allowed the Company observer to serve as the interpreter to employees waiting to vote at the beginning of the morning voting session on Friday June 25, 2021.

Given that the election results were 114 Yes votes and 101 No votes with two challenged voters, the delayed opening of the voting polls and the Board Agent's conduct during the morning voting session on Friday June 25, 2021 requires that the election be set aside and a rerun election be conducted.

Very truly yours,

SEYFARTH SHAW LLP

/s/ Howard M. Wexler

Howard M. Wexler

HMW (b) (6), (b) (7)(C)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

REFRESCO BEVERAGES US INC.

Case No. 22-RC-276628

Employer

and

UNITED ELECTRICAL, RADIO AND
MACHINE WORKERS OF AMERICA

Petitioner

REFRESCO’S MOTION TO RESCHEDULE OBJECTIONS HEARING

The Employer, Refresco Beverages US Inc. (“Refresco” or “Employer”), by and through its counsel, Seyfarth Shaw LLP, and pursuant to NLRB Rules and Regulations Section 102.69(c)(iii) and Section 102.64(c), hereby moves to reschedule the objections hearing currently scheduled to begin on July 27, 2021, to August 3, 2021. In support of its Motion, the Employer states as follows:

1. The election was conducted over two days, Thursday June 24, 2021 and Friday June 25, 2021.
2. On Friday July 2, 2021 the Employer timely filed objections to the election and an offer of proof in support of its objections.
3. On Wednesday July 7, 2021 the Union filed a response to the Employer’s objections to the election.
4. On Thursday, July 15, 2021, the Regional Director for Region 29 issued a Report on Objections and a Notice of Hearing. The Regional Director found the Employer’s two objections raised material and substantial issues of fact that would be best resolved by a Hearing. The Regional Director scheduled a Hearing to begin on July 27, 2021.

5. As part of its case in chief, the Employer intends to present Frank Gohl (“Mr. Gohl”), Plant Manager. Mr. Gohl is unavailable the week of July 26, 2021 due to a previously scheduled vacation. Mr. Gohl’s testimony is imperative to the Employer’s first objection as Mr. Gohl will provide facts related to the voting room and its immediate surroundings.

6. This Motion is brought in good faith and is necessary to ensure the Employer’s due process in this proceeding. The adjournment sought is warranted as it ensures that all necessary facts are presented to the Region which in turn will allow the Region to make the most informed decision to resolve the objections.

7. The Employer has contacted Union counsel and Union counsel has agreed to the Employer’s request to reschedule the objections hearing to August 3, 2021.

8. A copy of this Motion is being served on all other parties.

WHEREFORE, Refresco respectfully requests that this Motion be granted, and that the hearing in the above-referenced case, which is presently scheduled for July 27, 2021, be postponed to August 3, 2021.

Respectfully submitted this July 20, 2021.

SEYFARTH SHAW LLP

By: /s/ Howard M. Wexler
Howard M. Wexler

SEYFARTH SHAW LLP
Howard M. Wexler
hwexler@seyfarth.com
620 8th Avenue, 31st Floor
New York, NY 10018
Telephone: (212) 218-3332

Attorney for Employer
Refresco Beverages US Inc.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

REFRESCO BEVERAGES US INC.

Employer

and

Case No. 22-RC-276628

**UNITED ELECTRICAL, RADIO & MACHINE
WORKERS OF AMERICA**

Petitioner

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter is rescheduled from **July 27, 2021 at 9:30 AM to August 11, 2021 at 9:30 AM** by Zoom Video Hearing Conference. The hearing will continue on consecutive days until concluded. The parties will receive an invitation to the Zoom Video Hearing Conference in a separate communication.

Dated: July 22, 2021



Kathy Drew-King
Regional Director
National Labor Relations Board
Region 29
Two Metro Tech Center
Suite 5100
Brooklyn, Ny 11201-3838

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

In the matter of

REFRESCO BEVERAGES US INC.

Employer

and

Case 22-RC-276628

UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA

Petitioner

**ORDER TRANSFERRING CASE
FROM REGION 22 TO REGION 29**

Case 22-RC-276628, having been filed with the Regional Director for Region 22 and the Acting General Counsel of the Board having duly considered the matter, and deeming it necessary in order to effectuate the purpose of the National Labor Relations Act, and to avoid unnecessary costs and delay,

IT IS HEREBY ORDERED, in accordance with the Rules and Regulations of the National Labor Relations Board, that Case 22-RC-276628, and hereby is, transferred to and continued in Region 29.

/s/ Beth Tursell

FOR:

Peter Sung Ohr
Acting General Counsel

Dated: July 14, 2021
at Washington, D.C.

cc: Region 22, Region 29